

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

MFA.No. 812 of 1992(B)

OPMV.819/1988 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THALASSERY

APPELLANTS: PETITIONERS

1. METTAMMAL LAKSHMI, W/O. LATE KAPPANAKKAL GOPALAN,
AGED 45 YEARS, 'KUNIAN KIZHAKKEKARA', P.O. KARIVALLUR,
CANNANORE DIST.
2. METTAMMAL INDIRA, D/O. LATE KAPPANAKKAL GOPALAN, DO. DO.
3. METTAMMAL NIRMALA, D/O. DO., DO. DO.
4. METTAMMAL PRAKASOHAN, S/O. DO., DO. DO.
5. METTAMMAL THAMPAN, S/O. DO., DO. DO.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS: RESPONDENTS

1. V. NARAYANAN NAIR, S/O. KORAN NAIR, AMBALATHINKAL HOUSE,
P.O. KUTTIKOLE, VIA. CHENGALA, KASARAGOD.
2. THE NATIONAL INSURANCE CO. LTD., CANNANORE.
3. M.J. CHACKO, MECHOLI HOUSE, P.O. CHOYIYOTH, NEELESWARAM.

BY ADV. SRI.THAMPAN THOMAS,KA.CHERIAN,PVR.KAIMAL
SRI.VPK.PANICKER

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M. Ramachandran & S. Siri Jagan, JJ.

==--==--==--==--==--==--==--==--==

M.F.A. No. 812 of 1992

&

Cross objection

==--==--==--==--==--==--==--==--==

Dated this, the 30th January, 2007.

J U D G M E N T

Siri Jagan, J.

This appeal has been filed by the petitioners in O.P(M.V) No. 819 of 1988 on the files of the M.A.C.T., Thalasserry, seeking enhancement of compensation awarded by the Tribunal in respect of the death of one Kappanakkal Gopalan, who died in a motor accident on 1-7-1988. The appellants are the legal heirs of the said Kappanakkal Gopalan.

2. Heard both sides. The only question to be decided in this appeal is as to whether the compensation awarded by the Tribunal is just and reasonable.

3. Deceased Gopalan was aged 50 years at the time of death. He was a coolie. The appellants, widow and children, were aged 41 years, 23 years, 19 years, 16 years and 14 years respectively. After considering all the parameters, the Tribunal fixed the total compensation payable as Rs. 54,300/-. We find that the Tribunal has fixed the monthly income of the deceased as Rs. 400/- and taking a multiplier of 6, the total compensation for loss of dependency was assessed at Rs. 28,800/-. Rs. 7500/- was given as compensation to the 1st appellant towards loss of consortium. For pain and suffering, an amount of Rs. 16,000/- was also granted. Other amounts were also granted on minor heads. On a consideration of the facts and circumstances of the case, we are of opinion that the Tribunal has awarded just and reasonable compensation after taking into account all the parameters which go into the issue of fixation of compensation in motor accident claims.

4. Although the owner of the vehicle had filed a cross objection

challenging the finding of the Tribunal that the liability of the Insurance Company is limited to Rs. 15,000/- as the owner had paid premium of only Rs. 60/- and therefore found that the 2nd respondent is liable to indemnify the insured only to the extent of Rs.15,000/-. The Insurance Company has produced Ext. B1 carbon copy of the policy to prove the same. The owner has not cared to produce the original policy to disprove the same. In the above circumstances, we do not find any reason to interfere with the finding of the Tribunal in this regard also.

In view of our above findings, we do not find any merit either in the appeal or in the cross objection and accordingly, they are dismissed.

Sd/- M. Ramachandran, Judge.

Sd/- S. Siri Jagan, Judge.

Tds/

[True copy]

P.S to Judge.

M.F.A. No. 812/1992

-: 3 :-

M. Ramachandran & S. Siri Jagan, JJ.

=====

M.F.A. No. 812 of 1992

&

Cross objection

=====

J U D G M E N T

30th January, 2007.